



DPK
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Inventor: John J. Wille, Jr.

Attorney Docket No: 1194-011D

Serial No.: 09/694,393

Filing Date: October 23, 2000

Bruce M. Kisliuk
Director, Technology Center 1600

Title: PROTEIN-FREE DEFINED MEDIA
FOR THE GROWTH OF NORMAL
HUMAN KERATINOCYTES

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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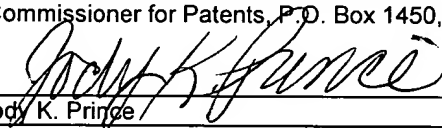
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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8 (A)

Date of Deposit: May 13, 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Jody K. Prince

PETITION FROM THE EXAMINER'S HOLDING OF ABANDONMENT
UNDER 37 CFR 1.81(a)

Sir:

Responsive to the Petition Decision dated March 13, 2003, and in accordance with Director Kisliuk's recommendations, Applicant hereby petitions that the Examiner's holding of abandonment be withdrawn.

Responsive to point 1 raised in the Petition Decision, new photomicrographs mounted on Bristol board are attached.

05/16/2003 AWONDAF2 00000108 194076 09694393

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Responsive to point 2, applicant offers the following in-depth explanation as to the time frame within which the previous petition was submitted. The undersigned was engaged in conversations with the following individuals telephonically and was communicating via facsimile. Copies of the facsimile communications are attached. It should be noted that as early as May 21, 2002, following telephonic communications, Jody Prince, a paralegal in our office, faxed a post card receipt to Mr. Tom Hawkins in Publications, because Mr. Hawkins had indicated that he had not received the Letter to the Official Draftsman that accompanied the issue fee payment. Mr. Hawkins indicated that if he received our post card receipt and if he could locate the communication to which it referred, the holding of abandonment should be able to be withdrawn. The facsimile communication also indicates that Cheryl Scotney would be calling Mr. Hawkins to discuss the matter. After several telephonic discussions with Mr. Hawkins concerning whether his receipt of our post card would cause the holding of abandonment to be withdrawn, to which a definite answer was never given, the undersigned first contacted the Examiner, Leon Lankford, Jr. at the telephone number 703-308-2455 and was told to contact another person in Publications by the name of LaMonte Newsome at the telephone number 703-305-5358 in an attempt to receive an answer. The noted conversations took place over a period of months. When a holding of withdrawal of the abandonment was not forthcoming, the undersigned deemed it prudent to file a Petition requesting the same. The undersigned believes that this explanation as to the length of time before filing the petition is sufficient to explain point 2 raised in the Petition Decision.

Responsive to point 3, the undersigned interprets the Notice of Allowability to require a replacement Fig. 1A. It was not interpreted to require replacement drawings for previously submitted and accepted photomicrographs mounted on Bristol board. Therefore, the issue fee payment was accompanied by a response explaining that Fig. 1A was not required. The undersigned wishes to explain that new formal drawings were not submitted because it was not understood that they were necessary. As noted in the Petition Decision, Fig. 4A had been entered. Therefore it was unclear to the undersigned that any formal drawings were required based upon a review of the facts and the history of the file itself. The undersigned believed that the response filed with the issue fee payment was a fully compliant response concerning the formal drawings. In explanation, the undersigned reiterates the following statements made in the previously-submitted Petition:

By a PETITION RESPONSIVE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b) the following information was provided (a portion of the exact text of that petition is restated herein as follows):

A copy of Fig. 4A from Applicants photocopy made in this office of the application exactly as it was submitted to the PTO on October 23, 2000;

A copy of the patent application transmittal indicating 11 sheets of drawings; and

A copy of the return-receipt post card acknowledging receipt of 11 sheets of formal photomicrographs.

Applicant respectfully submits that at the time of receipt of the application in the PTO Mail Room, Fig. 4A was

attached as acknowledged by the PTO stamp on the Post card indicating 11 sheets of formal photomicrographs.

Further evidencing the submission, Fig. 4A is discussed in the specification at the following locations:

Brief Description of the Drawings at page 17, first paragraph; and

Detailed Description of the Invention, Example 4, at page 29, lines 1-5.

In order to advance prosecution, a newly prepared Fig. 4A consisting of a mounted photomicrograph is attached for the record.

Therefore, a review of the official PTO record will reflect that, when compared to the specification as allowed, all drawings are present in the record and no further items are necessary in order for the patent to proceed to issuance. However, responsive to the Petition Decision, newly mounted photomicrographs are attached. Applicants respectfully request that the holding of abandonment be withdrawn.

The undersigned believes that no petition fee is required in the instant Petition. However, should the above arguments not be persuasive, please accept this Petition as a Petition to Revive Under 37 C.F.R. 1.137(b). The undersigned believes that the arguments above reflect that Applicant and the undersigned acted in good faith by filing what they believed to be a fully responsive reply with the issue fee. Therefore, the undersigned believes that the abandonment was unavoidable in that no other course of action to be taken was apparent and that she believed that all appropriate responses and paperwork had been filed with the issue fee payment. Therefore, the undersigned believes that the higher standard of "unavoidable" abandonment has been met. The

Commissioner is authorized to charge the \$55.00 petition fee to Deposit Account 19-4076 if it is determined that the petition fee is due. A duplicate of this document is enclosed for such purpose.

Respectfully submitted,

Dated: 5/12/03

By: Cheryl S. Scotney
Cheryl S. Scotney, Reg. No. 46,218
Attorney for Applicant
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FACSIMILE COVER SHEET

DATE: May 21, 2002 FACSIMILE NO.: 703-305-4372
TO: Tom Hawkins
COMPANY: USPTO
FROM: Jody Prince

Number of pages (including cover sheet) - 3 pages

SUBJECT: U.S. Serial No. 09/694,393

NOTES: Responsive to your conversation this date with Cheryl Scomey, attached is a copy of
the communication that accompanied the issue fee transmittal concerning the formal drawings. A copy
of the post card receipt is attached. I will telephone you today to discuss any further requirements.

CONFIRMATION: ☐ by First Class Mail
☐ by Express Mail
☒ none

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CLIENT CODE: HYD 1194-011D

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STANDLEY & GILCREST

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Facsimile: (614) 792-5536



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TO: Tom Hawkins

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CONFIRMATION: ☐ by First Class Mail
☐ by Express Mail
☒ none

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Applicant: WILLIS

Title/Mark: 1. Allen & Co. & Sons Ltd. v. The Crown

☐ Appl'n for Patent with:

_____ pg of Claims

_____ pg of Drawing

Attor's Declaration & Power of Atty.

☐ **Inventor's Declaration & Power of Atty.**☐ **Verified Small Entity Statement of Inventor**☐ **Verified Small Entity Statement of**☐ Information Disclosure Statement☐ Response to Notice of Missing Parts☐ Amendment

☒ Letter to Draftsman

_____ pg Formal Drawings

☒ Issue Fee Forms

☐ Assignment & Assignment Recordation Sheet

Check No: 1402 \$ 1040.00

☒ Certificate of mailing date of

☐ Appl'n for TM/SM with drawing and

specimens of mark

 Use based

□ FY

☐ **Appn for Copyright Registration and**

deposits.

☐ Request for _____ Extension of time☐ Amendment to Allege Use☐ Statement of Use☐

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Assistant Commissioner for Patents
Washington, D.C. 20231

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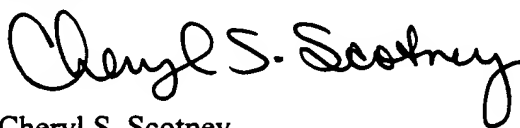
Re: U.S. Patent Application Serial No. 09/694,393
Title: Protein-Free Defined Media for the Growth of
Normal Human Keratinocytes
Filed: 12/23/2000
Notice of Allowability: 09/28/01
Batch No.: M72
Attorney Docket No.: HYG 1194-011D

Sir:

This Paper is filed responsive to the Notice of Allowability, wherein the Examiner has requested a Fig. 1A. A review of the specification will confirm that there is, in fact, no Fig. 1A in the application. The Figures began with Fig. 1B. Therefore, it respectfully is submitted that no further drawings are required.

The issue fee accompanies this response. Therefore, all requirements having been met, the patent should proceed to issuance.

Respectfully submitted,



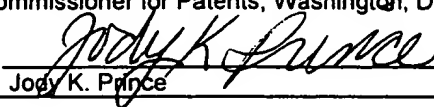
Cheryl S. Scotney

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Date of Deposit: December 28, 2001

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Jody K. Prince

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